

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MONA LISA MCBRIDE,)
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Plaintiff,)
)
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v.) No. 4:06CV1004 FRB
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DILLARD'S, INC.,)
)
)
Defendant.)

MEMORANDUM AND ORDER

This cause is before the Court, sua sponte, upon review of the file. All matters are pending before the undersigned United States Magistrate Judge, with consent of the parties, pursuant to 28 U.S.C. § 636(c).

On or about April 14, 2006, plaintiff filed the instant cause of action against defendant Dillard's, Inc., in the Circuit Court of the City of St. Louis, Missouri. In that court, the matter was assigned Case No. 062-00744. In June 2006, plaintiff filed a pleading in the action in which she alleged that defendant Dillard's unlawfully discriminated against her in her employment on account of her race in violation of Title VII of the Civil Rights Act of 1964, as amended; and averring that she had received a Right to Sue letter from the Missouri Commission on Human Rights. Thereafter, on June 30, 2006, defendant Dillard's removed the action to this Court invoking the Court's federal question jurisdiction inasmuch as plaintiff had raised a claim under 42 U.S.C. §§ 2000e, et seq. Defendant has since filed a Motion to Dismiss, construed by the Court

as one for summary judgment. The briefing period on this motion has not yet closed.

On August 14, 2006, plaintiff Mona Lisa McBride submitted to this Court a "Motion for Appointment of Counsel on My Behalf" in which plaintiff requests the Court to appoint counsel for the purpose of assisting her in removing to this Court a separate cause of action from the Circuit Court of the City of St. Louis, namely, Mona Lisa McBride v. Edwards, Singer, Schramm, Watkins & Speneman, L.L.P., et al., Case No. 060-04547. Plaintiff avers in the instant motion that this cause of action was dismissed with prejudice by the circuit court on July 10, 2006, for plaintiff's failure to state a claim and that judgment was entered for defendants thereon. Plaintiff avers that she thereafter filed a Motion for Relief on Judgment, which was denied by the circuit court on August 2, 2006. Plaintiff thus requests that because she can no longer pursue the claims raised in Case No. 060-04547 in state court, such case be removed to this Court so that she may continue to pursue the claims in this forum. Submitted with the instant motion is a package of materials and documents related to the state case of McBride v. Edwards, Singer, Schramm, Watkins & Speneman, L.L.P., et al., Case No. 060-04547.

A cause of action filed in state court which has since been dismissed in that forum cannot be removed to federal court inasmuch as no present case or controversy exists over which the federal court may exercise jurisdiction. Ali v. Cangemi, 419 F.3d 722 (8th Cir. 2005). Inasmuch as Case No. 060-04547 has been dismissed in state

court, this Court would have no jurisdiction over the action in the event it were to be removed to this Court. As such, the appointment of counsel to assist plaintiff in removing Case No. 060-04547 from the Circuit Court of the City of St. Louis to this Court would be futile, and plaintiff's request therefor should be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's "Motion for Appointment of Counsel on My Behalf" (filed August 14, 2006/Docket No. 15) is denied.

Inasmuch as the package of materials and documents submitted with the instant motion bears no relation to the matter currently pending before this Court,

IT IS FURTHER ORDERED that, forthwith, the Clerk of Court shall return to plaintiff Mona Lisa McBride the package of materials and documents submitted to the Court on August 14, 2006, and which are related to the state case of McBride v. Edwards, Singer, Schramm, Watkins & Speneman, L.L.P., et al., Case No. 060-04547.

Frederick R. Buckles

UNITED STATES MAGISTRATE JUDGE

Dated this 24th day of August, 2006.